

SENATE BILL No. 140

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-1-29-14; IC 34-13-3-4.

Synopsis: Tort claims against governmental entities. Provides that for purposes of the laws concerning tort claims against governmental entities and the political subdivision risk management fund, an act or omission from which the liability of a governmental entity arises includes any related acts or omissions regardless of the number of injuries sustained by a person.

Effective: July 1, 2008.

Bray

January 8, 2008, read first time and referred to Committee on Judiciary.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 140

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-29-14 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) In order to be
3 eligible for payment under this chapter, a liability of a political
4 subdivision must arise out of a claim based upon an act or omission
5 that takes place while the political subdivision is a member of the fund.

6 (b) The maximum amount payable from the fund for any liability,
7 whether or not it is covered under IC 34-13-3 (or IC 34-4-16.5 before
8 its repeal), is:

9 (1) for injury, death, or damage suffered by any one (1) person as
10 a result of the act or omission from which the liability arises:

11 (A) three hundred thousand dollars (\$300,000) for a cause of
12 action that accrues before January 1, 2006;

13 (B) five hundred thousand dollars (\$500,000) for a cause of
14 action that accrues on or after January 1, 2006, and before
15 January 1, 2008; or

16 (C) seven hundred thousand dollars (\$700,000) for a cause of
17 action that accrues on or after January 1, 2008; and



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(2) one million dollars (\$1,000,000) for all injury, death, or damage suffered by all persons as a result of the act or omission from which the liability arises.

(c) No amount may be paid from the fund in respect of punitive damages paid by or assessed against a member of the fund.

(d) No amount may be paid from the fund in the case of a liability based upon bodily injury or property damage arising out of the discharge, dispersal, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, waste materials, or other irritants, contaminants, or pollutants into or upon land, the atmosphere, or any watercourse or body of water unless the discharge, dispersal, release, or escape:

(1) is caused by an act or omission of a political subdivision that is a member of the fund; and

(2) occurs as a result of:

(A) a household hazardous waste; or

(B) a conditionally exempt small quantity generator (as described in 40 CFR 261.5(a));

collection, disposal, or recycling project conducted by or controlled by the political subdivision.

(e) The commissioner may pay a liability of a member of the fund in a series of annual payments. The amount of any annual payment under this subsection must be one hundred thousand dollars (\$100,000) or more, except for the final payment in a series of payments.

(f) The commission may negotiate a structured settlement of any claim.

(g) As used in this section, "household hazardous waste" means solid waste generated by households that consists of or contains a material that is:

(1) ignitable, as described in 40 CFR 261.21;

(2) corrosive, as described in 40 CFR 261.22;

(3) reactive, as described in 40 CFR 261.23; or

(4) toxic, as described in 40 CFR 261.24.

(h) For purposes of this section, an act or omission includes any related acts or omissions regardless of the number of injuries sustained by a person.

SECTION 2. IC 34-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The combined aggregate liability of all governmental entities and of all public employees, acting within the scope of their employment and not excluded from liability under section 3 of this chapter, does not exceed:

(1) for injury to, ~~or the death of,~~ **or damage suffered by** one (1)

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1 person in any one ~~(1)~~ occurrence, as a result of an act or
 2 omission from which the liability arises:

3 (A) three hundred thousand dollars (\$300,000) for a cause of
 4 action that accrues before January 1, 2006;

5 (B) five hundred thousand dollars (\$500,000) for a cause of
 6 action that accrues on or after January 1, 2006, and before
 7 January 1, 2008; or

8 (C) seven hundred thousand dollars (\$700,000) for a cause of
 9 action that accrues on or after January 1, 2008; and

10 (2) for injury to, ~~or the~~ death of, ~~or damage suffered by all~~
 11 persons in that occurrence, as a result of an act or omission
 12 from which the liability arises, five million dollars (\$5,000,000).

13 (b) A governmental entity or an employee of a governmental entity
 14 acting within the scope of employment is not liable for punitive
 15 damages.

16 (c) For purposes of this section, an act or omission includes any
 17 related acts or omissions regardless of the number of injuries
 18 sustained by a person.

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